

## **REMARKS**

Applicant respectfully requests reconsideration and continued examination of this application in view of the amendment and the following remarks. Claims 1-34 are pending in this application.

### **1. Status of the Claims**

The Examiner has indicated that claim 8 contains patentable subject matter. Applicant is grateful for the indication of allowable subject matter.

Claim 10 and 31 has been amended to replace "connection portions" with "connection members." Pages 13 and 14 of the present application provide support for the above amendment.

Claim 29 has been amended to replace "panel" with "sheet." Support can be found in claim 3 as originally filed and page 2, line 10 of the present application.

Claim 34 has been amended to replace "transparent sheet" with "substantially translucent sheet." Support for claim 34 can be found in FIG. 1 and page 9. In particular, sheet 32 can be folded over rotating members 29a and 29b to change the display from a breakfast menu to a lunch menu. Rotating members 29a and 29b are substantially parallel to each other as shown in FIG. 1. Thus, while the breakfast menu is being changed to a lunch menu, sheet 32 is folded over rotating member 29a or 29b and has two substantially parallel portions within the display device on either side of rotating member 29a or 29b.

### **2. The Final Office Action was Premature**

The patentability of claim 34 was not addressed in the Office Action of June 2, 2006. Indeed if it was examined, it would have been found to be patentable because none of the cited patents disclosed "a transparent sheet [that] can be folded into two substantially parallel portions within the display device."

Although claim 34 was found to be indefinite, examination was still required. In particular, the MPEP states, "Indefinite Limitations Must Be Considered" and "A claim

limitation which is considered indefinite cannot be disregarded.” MPEP § 2143.03.

Even if the limitation is new matter, the limitation must be considered. *Id.*

Here, the limitation was not rejected as being new matter and the intended meaning of the claim 34 was reasonably ascertainable. The independent claims refer to a substantially translucent sheet; claims 3 and 18 indicate that the substantially translucent sheet can be transparent; and claim 31 recites “said sheet.” Moreover, the section of the specification cited as support for claim 34 (page 9) describes “sheet 32,” which is the substantially translucent sheet of the claims. Furthermore, claim 34 was argued as being patentable. Thus, the Office Action should have addressed the patentability of claim 34 assuming that the transparent sheet referred to “said sheet” of claim 31. Rather than filing a Petition for Prematureness of Final Rejection with the Technology Center Director under MPEP 1002.02(c)(3)(a), Applicant Requests that the finality of the action be withdrawn under 706.07(d) as being premature.

### **3. 35 U.S.C. §112 Rejections**

Claims 31 and 34 were rejected because of a lack of antecedent basis for “connection portions” and “transparent sheet,” respectively. Applicant submits that the amendments described above provide the necessary antecedent basis. Applicant requests the withdrawal of the § 112 rejections.

### **4. 35 U.S.C. §§ 102 and 103 Rejections**

Claims 1, 2, 4-7, 9-17, 19-28 and 30-33 were rejected as being anticipated by U.S. Patent No. 4,693,026 to Callahan et al. (“Callahan”). Claims 3, 18 and 29 were rejected as being not patentable under 35 U.S.C. §103 over Callahan in view of U.S. Patent No. 5,065,537 to Bailey (“Bailey”). Applicant respectfully traverses these rejections.

At the heart of the rejections is a disagreement over the meaning of non-self-supporting. The Office Action states that the limitation “a ... non-self-supporting ... sheet” is fully met by a sheet that is supported by something other than itself, e.g., a frame.

Applicant traverses. The specification defines non-self-supporting. 'By "non-self-supporting," it is meant that the sheet is not self-supporting by itself (typically because it is too flexible or not sufficiently rigid).' Page 10, Ins. 5-7. The MPEP requires terms to be construed according to explicit definitions provided in the specification. MPEP § 2111.01(III) ("Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim"); MPEP § 2173.05(a)(I) ("When the specification states the meaning that a term in the claim is intended to have, the claim is examined using that meaning"). The explicit definition provided in the specification does not read on any sheet supported by a frame; it only reads on a sheet which cannot support its own weight, i.e., a sheet which is not self-supporting by itself. As indicated in the previous Amendment, neither Callahan nor Bailey discloses sheets that do not support their own weight; a point which the Office Action does not dispute. Therefore, the claims are patentable over Callahan and Bailey.

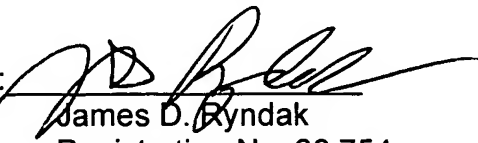
#### 5. Patentability of Claim 34

Similarly, Callahan and Bailey do not teach, disclose or suggest a substantially translucent sheet which can be folded into two substantially parallel portions within the display device. Consequently, claim 34 is novel and patentable over Callahan and Bailey even if claims 1-33 are not deemed patentable.

#### CONCLUSION

In view of the foregoing, all of the rejections have been overcome and claims 1-34 are allowable. An early indication of allowance is solicited.

Respectfully submitted,

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Dated: August 2, 2006

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August 2, 2006

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